Commission Implementing Regulation (EU) 2017/677 of 10 April 2017 on extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and depth granted to boat seines fishing for transparent goby (Aphia minuta) in certain territorial waters of Spain (Murcia)

COMMISSION IMPLEMENTING REGULATION (EU) 2017/677

of 10 April 2017

on extending the derogation from Council Regulation (EC) No 1967/2006 as regards the minimum distance from the coast and depth granted to boat seines fishing for transparent goby (*Aphia minuta*) in certain territorial waters of Spain (Murcia)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea[(1)], and in particular Article 13(5) thereof,

Whereas:

(1) Article 13(1) of Regulation (EC) No 1967/2006 prohibits the use of towed gears within 3 nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance from the coast.

(2) At the request of a Member State, the Commission may allow a derogation from Article 13(1) of Regulation (EC) No 1967/2006, provided that a number of conditions set out in Article 13(5) and(9) are fulfilled.

(3) On 17 April 2012 the Commission received a request from Spain for a derogation from the first subparagraph of Article 13(1) of that Regulation, for the use of boat seines fishing for transparent goby (*Aphia minuta*), within its territorial waters in the Autonomous Community of Murcia.

(4) The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed in 2013 the derogation requested by Spain and the related draft management plan.

(5) The Spanish management plan was adopted by Spain on 27 March 2013[(2)].

(6) The derogation from the first subparagraph of Article 13(1) was granted until 31 December 2016 by the Commission Implementing Regulation (EU) No 773/2013[(3)].

(7) Spain submitted to the Commission in June 2013, September 2014, July 2015 and July 2016 scientific reports on the implementation of the management plan.

(8) On 13 July 2016 the Spanish Authorities requested the European Commission to extend the derogation beyond 31 December 2016. Spain provided up-to-date information to justify the renewal of the derogation.

(9) The STECF assessed in 2016 the request of Spain for the prolongation of the derogation and the related draft management plan.

(10) The derogation requested by Spain complies with the conditions laid down in Article 13(5) and (9) of Regulation (EC) No 1967/2006.

(11) There are specific geographical constraints given the limited size of the continental shelf and the special distribution of the target species.

(12) The boat seines fishery cannot be undertaken with other gears and has no significant impact on marine environment.

(13) The derogation requested by Spain affects a limited number of only 27 vessels.

(14) The management plan guarantees no future increase in the fishing effort, as fishing authorisations will be issued to specified 27 vessels involving a total effort of 1 211 Kw that are already authorised to fish by Spain.

(15) Those vessels are included on a list communicated to the Commission in line with the requirements of Article 13(9) of Regulation (EC) No 1967/2006.

(16) The management plan introduces modifications to render more effectively the fishing operations namely (i) it offers the possibility to have a flexible starting date of the allowed fishing season depending on the meteorological conditions; (ii) it places a maximum daily allowed catch per vessel, per day and per fishermen employed; (iii) it modifies the limit reference points in line with the scientific data of the years 2012-2016; (iv) it introduces measures to restrict transfer of fishing authorisations; and (v) establishes a management committee bringing together the authorities with fishing sector, scientific community and stakeholders.

(17) The fishing activities concerned fulfil the requirements of Article 4(1) of Regulation (EC) No 1967/2006 which by way of derogation, allows fishing above protected habitats if fishing is operated without touching the seagrass bed under certain conditions.

(18) The requirement of Article 8(1)(h) of Regulation (EC) No 1967/2006 are not applicable since it relates to trawlers.

(19) As regards the requirement to comply with Article 9(3) establishing the minimum mesh size, the Commission notes that given the fishing activities concerned are highly selective, have a negligible effect on the marine environment and are not affected by the provisions in Article 4(5), in line with Article 9(7) of Regulation (EC) No 1967/2006 Spain authorised a derogation from these provisions in its management plan.

(20) The Spanish management plan includes measures for the monitoring of fishing activities, thus fulfilling the conditions set out in Article 14 of Council Regulation (EC) No 1224/2009[4].

(21) The fishing activities concerned do not interfere with the activities of other vessels.

(22) The activity of boat seines is regulated in the Spanish management plan to ensure that catches of species mentioned in Annex III to Regulation (EC) No 1967/2006 are minimal.

(23) Boat seines do not target cephalopods.

(24) The Spanish management plan includes measures for the monitoring of fishing activities, as provided for in the third subparagraph of Article 13(9) of Regulation (EC) No 1967/2006.

(25) The requested derogation should therefore be granted.

(26) Spain should report to the Commission in due time and in accordance with the monitoring plan provided for in the Spanish management plan.

(27) A limitation in duration of the derogation will allow ensuring prompt corrective management measures in case the monitoring of the management plan shows a poor conservation status of the exploited stock, while providing scope to enhance the scientific basis for an improved management plan.

(28) Accordingly the derogation should apply until 31 December 2019.

(29) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Derogation

Article 13(1) of Regulation (EC) No 1967/2006 shall not apply in territorial waters of Spain adjacent to the coast of the Autonomous Community of Murcia, to fishing for transparent goby (*Aphia minuta*) by boat seines which are used by vessels:

(a) registered in the maritime census managed by the Directorate-General for Livestock and Fisheries of the Autonomous Community of Murcia;

(b) having a track record in the fishery of more than 5 years and not involving any future increase in fishing effort provided; and

(c) holding a fishing authorisation and operating under the management plan adopted by Spain in accordance with Article 19 of Regulation (EC) No 1967/2006 (hereinafter referred to as ‘the management plan’).

This derogation shall apply until 31 December 2019.